

STATE OF SOUTH DAKOTA)
 :SS
COUNTY OF MINNEHAHA)

IN CIRCUIT COURT

SECOND JUDICIAL CIRCUIT

LLOYD E. SOLBERG,

Plaintiff,

v.

UNUM LIFE INSURANCE COMPANY OF
AMERICA and PROVIDENT LIFE AND
ACCIDENT INSURANCE COMPANY,

Defendants.

CIV.

COMPLAINT

COMES NOW, Plaintiff, Lloyd E. Solberg, and for his cause of action against Defendants, UNUM Life Insurance Company of America and Provident Life and Accident Insurance Company, states and alleges as follows:

1. Plaintiff has at all times material hereto been a resident of Minnehaha County, South Dakota.
2. Defendant UNUM Life Insurance Company of America is a Maine corporation licensed to transact insurance business in the State of South Dakota.
3. Defendant Provident Life and Accident Insurance Company is a Tennessee corporation licensed to transact insurance business in the State of South Dakota.
4. Plaintiff purchased from Defendant UNUM Life Insurance Company of America that certain disability income policy with an effective date of June 13, 1988 (the "UNUM Policy").
5. Plaintiff purchased from Defendant Provident Life and Accident Insurance Company, two (2) disability income policies with effective dates of January 1, 1984 (the "Provident Policies").
6. The UNUM Policy and the Provident Policies have been, and remain, in full force and effect since the effective date.



7. The UNUM Policy and the Provident Policies generally provide coverage, upon certain terms and conditions, for residual disability income when an insured is unable to fully perform his or her occupation which results in a reduction in income.

8. Plaintiff suffers from a medical condition which limits the Plaintiff's ability to fully perform his occupation and which resulted in a reduction in Plaintiff's income in accordance with the terms and conditions of the UNUM Policy and the Provident Policies.

9. Plaintiff submitted a claim for residual disability income for the period of March, 2008 through December, 2008 under the UNUM Policy and the Provident Policies.

10. Defendant UNUM Life Insurance Company of America denied Plaintiff's claim for residual disability income for the period of March, 2008 through December, 2008.

11. Defendant Provident Life and Accident Insurance Company denied Plaintiff's claim for residual disability income for the period of March, 2008 through December, 2008.

12. Defendants improperly denied the Plaintiff's claim, citing that Plaintiff's medical condition does not limit Plaintiff's ability to fully perform his occupation and, therefore, the Plaintiff is not disabled in accordance with the terms of UNUM Policy and Provident Policies.

13. Defendants' denial of Plaintiff's claim and failure to make payments under the terms of the UNUM Policy and Provident Policies for residual disability income constitutes a breach of contract.

14. The Defendants' refusal to pay the full amount of the Plaintiff's claim is vexatious and without reasonable cause, entitling the Plaintiff to an award of attorneys' fees pursuant to SDCL § 58-12-3 or otherwise.

15. Due to the fact that the parties in this matter are in disagreement about the terms of the UNUM Policy and Provident Policies, a declaratory judgment is proper pursuant to SDCL § 21-24-1.

WHEREFORE, Plaintiff prays for a judgment against Defendants as follows:

1. For a declaratory judgment by the Court declaring the Plaintiff to be entitled to payment under the UNUM Policy and Provident Policies for residual disability income;
2. For a money judgment for residual disability income benefits for the period of March, 2008 through December, 2008 to be determined at trial, plus pre-judgment interest at a rate of ten percent (10%) per annum through the date of judgment;
3. For Plaintiff's costs and attorneys' fees herein; and
4. For such other and further relief as the Court deems just and equitable in this matter.

Dated this 5th day of April, 2010, at Sioux Falls, South Dakota.

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BY

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DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands trial by jury on all issues so triable.

April 5, 2010.

BY

Robert L. Meadors